

Land Trust Protection and Advocacy Committee Meeting
Tuesday, October 12, 2021 | 9:00 am

Consistent with the committee chairperson's written determination dated September 27, 2021, this Committee meeting was held via electronic means only. No anchor location was used, and members of the public were not allowed to attend this meeting in person. The committee chairperson's September 27, 2021 determination to conduct an electronic meeting was based on the following facts:

1. Utah is currently dealing with COVID-19, which has been determined to be a pandemic. COVID-19 is extremely contagious and can be deadly to those who contract it, especially those of advanced age or with underlying health conditions.
2. While the number of people who have received the vaccination is increasing and the state is beginning to return to in-person operations, a vast majority of agency staff and committee members are teleworking to avoid unnecessary contact with others.
3. The conference room normally used as anchor location is insufficient to allow social distancing and reasonably safe accommodation of the committee, staff, and the public.
4. The committee uses an electronic platform, which allows interested parties to view the meeting, hear discussions and provide comment.

This meeting was accessible to the public and open to public comment via Zoom.

Protection and Advocacy Committee Minutes
Tuesday, October 12, 2021, 9:00 am

Virtual Attendees:

Tim Donaldson - Advocacy Office
Jessie Stuart - Advocacy Office
Louie Cononelos - Advocacy Committee
Richard Ellis - Advocacy Committee
Brigham Tomco - Advocacy Committee
Paula Plant - Advocacy Committee
Steven Ostler - Advocacy Committee
Don Foot - SITLA Board
Scott Ruppe - SITLA
Dave Ure - SITLA
Marla Kennedy - SITLA

Mike Johnson - SITLA
Elise Newey - School Children's Trust
Natalie Gordon - School Children's Trust
Michelle Tanner - USDB
Susan Patten - USDB
Heather Van Leeuwen - Utah PTA
Kelsey Nelson - State Treasurer's Office
Marlo Oaks - State Treasurer
Paul Tonks - Attorney General's Office
Symone Caldwell - SITFO
Margaret Bird - ASTL

1. Welcome and Call Meeting to Order
Chair Ostler welcomed the Committee and guests and called the meeting to order at approximately 9:00 AM.
2. Approval of Minutes – July 13, 2021
Mr. Ellis made a motion to approve the minutes from July 13, 2021. Mr. Tomco seconded the motion. The vote was unanimous in the affirmative.
3. Election of Committee Chair and Vice Chair
Mr. Cononelos moved to re-elect Steve Ostler as Chair and Paula Plant as Vice Chair. Mr. Ellis seconded the motion.
Ayes: Louie Cononelos, Richard Ellis, Brigham Tomco, Paula Plant, Steve Ostler
Nays: none
4. Calendar and Confirmation of Meeting Dates
Attached, Exhibit (B) pages 11-12
5. Stakeholder and Public Input
The committee sets aside 15 minutes at the committee meeting to hear from anyone wishing to speak. There were no public comments.
 - a. Advocates for School Trust Lands (ASTL) *Margaret Bird*
 - i. Ms. Bird explained that the nonprofit group Advocates for School Trust Lands (ASTL) operates in 20 states that still have school trust lands. There have been some virtual meetings on pressing issues such as the wildfires throughout the western US.
 - ii. The Montana Legislature passed legislation that takes water rights from trust lands and gives the rights to local, nearby land owners. The case was challenged in courts and is now being heard by the Montana Supreme Court. The case is *Advocates for School Trust Land v. Montana*.
 - iii. The State of Oregon has decided not to produce timber from trust land. A pro se lawsuit has been filed against that decision. Prior to this decision, the Elliott Forest created approximately \$50 million in revenue per year. This case is being appealed after being ruled against based on standing.
 - iv. In Colorado, there is a proposal before voters to divert all oil and gas revenue from the land office to current expenditures for education with the exception of \$20 million going to the permanent fund. ASTL is searching for an attorney to challenge the proposal. There is a provision in Colorado law that states that current generations cannot use trust funds to the detriment of future generations.
 - b. Utah Schools for the Deaf and the Blind (USDB) *Michelle Tanner, Associate Superintendent of the Deaf, Susan Patten, Associate Superintendent of the Blind*
 - i. Ms. Patten and Ms. Tanner discussed USDB Enrichment Programs. The trust distributions that the USDB receive go to help funding the schools Enrichment Programs. The programs are intended to provide specialized programs and enhanced learning opportunities beyond the normal scope of

traditional school programs. These programs serve students in the state of Utah from birth to age 22. Any deaf and blind students across the state can access these funds. Ms. Tanner and Ms. Patten provided a presentation on a few of the activities that trust lands help fund such as: Extra-curricular activities, Study abroad trips, Music therapy, PIP family activities, Deaf/Blind Mentor Program, ASL course development, ERC books, After school reading clinic expansion, INSITE evaluation tool, Genote, CVI Connect, EyeOn Device.

- ii. Ms. Plant asked for a discussion on a past program involving racing boats. Ms. Tanner and Ms. Patten shared that a small team of Deaf and Blind students built boats with local experts and mentoring from a school in Colorado. The 70/48 race is held in the Puget Sound and races 70 miles over 48 hours. The team completed about 56 miles of the race but had to stop due to the weather. They prepared at Lake Powell and Willard Bay. Students will be entered into the program this year with funding from private donors. In the future enrichment funds may be used depending on donations.
- c. Trust Lands Advisory Committee (TLAC) *Paula Plant, Advocacy Committee Vice Chair*
 - i. The School Children's Trust Section has reorganized. Ms. Plant explained that the largest responsibilities of the office are to train and to administer the School LAND Trust Program and ensure that it is running effectively. Natalie Gordon oversees the financial distributions to schools and monitoring compliance for school spending. Elisse Newey, a recent hire, is leading the training responsibilities of the office.
- 6. Notification and Discussion Items
 - a. Advocacy Update *Jessie Stuart, Outreach, Advocacy and Office Specialist*
 - i. Ms. Stuart introduced Marla Kennedy who is the new SITLA communications specialist. She has experience in public policy and communications. The Advocacy Office created individualized updates for each legislator, school district, and the commissioners of each county. The updates included the amount of funds that went to each school within each group's specific boundaries as well included information on school community councils to encourage involvement. Many legislators responded positively to the update as well as shared the information on social media.
 - ii. Additionally, Ms. Stuart informed the committee that FY 2022 distribution amounts were released and a distribution update was provided for each beneficiary.
 - iii. The annual report is being drafted and will be finalized in November. An e-newsletter is currently being drafted.

7. Trust Update *Tim Donaldson, Advocacy Office Director*
 - a. Mr. Donaldson discussed the Western Regional Partners Presentation in July. The goal was to help people understand the purpose of trust lands. The presentation introduced the history of congressional land grants as well as current trust land holdings throughout the United States.
 - b. SITLA Update, *Tim Donaldson, Director*
 - i. Mr. Donaldson noted feedback regularly received from exiting SITLA board members is the onboarding and training process could be improved. This would help new board members make a bigger contribution earlier in their term. The Advocacy Office would like to look into how to improve the onboarding and training process. Mr. Donaldson and Ms. Stuart recently met with Tiffany James, the newest SITLA board member.
 - ii. SITLA Board Chair Don Foot, SITLA Nominating Committee Chair Brigham Tomco, and Director Donaldson recently met to discuss the needs of the SITLA Nominating Committee. Chair Foot raised concerns about not having expertise needed in minerals on the SITLA Board.
 - iii. FY22 is looking like a strong oil and gas rebound year. Mr. Donaldson mentioned that there is some concern on potential mineral potential on lands slated for exchange in the Dingell Act. Potential complications on this item will need more study.
 - iv. The SITLA board will be touring developments near St. George, UT and will be touring and discussing some specific development areas. Mr. Donaldson mentioned that Washington County is acquiring SITLA lands in Habitat Conservation Plans Zone 6 and this will be toured as well.
 - v. Mr. Donaldson explained that the Development group sometimes has large complex transactions, often in tens of millions and take decades to measure and evaluate. The most important and best opportunity to provide input, due diligence and risk assessment is up front. The Desert Color Development lease structuring has been complicated, but the Advocacy Office has made efforts to provide input and due diligence at the earliest stages of structuring.
 - vi. Renewables continue to be developed on SITLA land. It has become clear that we are in an era of significant energy changes. Some of the new developments in energy are being developed on SITLA land including a new clean energy storage including IPP Magnum.
 - vii. The Surface group has the Cinnamon Creek Block listed for an online auction scheduled for November. This has encountered some legislative criticism. The minimum bid is posted at \$19.5 million. SITLA is optimistic that it will receive a higher bid. Annual revenue is approximately \$20,000 per year on that block. The disparity in funds received from a sale versus the annual revenue provides an argument for selling the land.

- viii. Mr. Donaldson briefly shared an article in the Salt Lake Tribune by Robert Gehrke that reviewed the history of Bear Ears and Grand Staircase Monument. The Grand Staircase-Escalante Monument land exchanges with trust lands were a major benefit for the state and Utah schoolchildren. When President Obama designated Bears Ears, SITLA estimated there were 109,000 acres encased within the new monument, but an exchange did not come to fruition. Another exchange could prove a major benefit for Utah Schools.
- ix. At the September 16th SITLA Board meeting, Chris Fausset, who is over exchanges, showed the different layers on the map showing federal restrictions that show the limitations on SITLA's ability to trade into lands. One thing that SITLA is finding is that it is getting harder and harder to find economically attractive lands to trade into.
- x. Mr. Donaldson made a note about transparency in the trust. At the September 16th SITLA Board meeting, he took a strong position on the Open and Public Meeting Act. While there are complexities to it, he noted the goal of the Trust should be to operate as transparently as possible.
- c. SITFO Update, *Tim Donaldson, Director*
 - i. A SITFO Board retreat was held in Snowbird from October 4-5. This may become an annual event. Ed Alter received the first SITFO Friend of the Trust Award. At the event, board members, beneficiaries, and other stakeholders were able to gather for one or both days to network and discuss SITFO portfolio and strategies.
 - ii. As of August, SITFO performance was \$3.084 Billion total combined permanent market value. It has exceeded the CPI +5 benchmark. In future meetings, Director Donaldson intends to break down the details on SITFO's asset allocation strategies for the Committee.
 - iii. Trust distributions to schools are reaching the \$100 million level. School beneficiaries get about 95% of the total distributions.
- d. Questions:
 - i. Mr. Cononelos referred back to Mr. Donaldson's comments about OPMA and the need for transparency in the trust. He commented that he is an advocate for open meeting laws but at the same time understands that there are issues that need to be discussed in the executive sessions of the SITLA board that need to remain proprietary. He questioned if the SITLA board and the administration had the flexibility required to meet those proprietary discussions. Discussion was held regarding this issue.

Mr. Ure, Director of SITLA, commented that he thought SITLA did not and that the open public meeting laws inhibit the ability to openly discuss items that need to be discussed without disadvantaging their customers. Ms. Plant and Mr. Donaldson questioned what exemptions would be needed in addition to what was passed in SB100 (Sen Wilson) in the 2020

legislative session. Mike Johnson, SITLA chief legal counsel, touched on those recently added exemptions dealt with things like negotiating joint ventures or OBAs as well as listing land for sale and determining the timing for such listings. Recently however, there has been some concern as to the confidentiality of bids. Mr. Johnson also explained that there are GRAMA protections allow the agency to protect the records if the records conflict with the fiduciary duties of that entity. Mr. Foot, Chair of the SITLA Board also commented that it has been a difficult year because they have not been able to sit down and discuss some of the sensitive issues pending this year. Not being able to strategize on how to handle some of these issues has presented difficulties. Having some form of ability to discuss generally on some of these issues would be helpful. He also noted that there is hesitation from the private sector with concern of propriety information getting to the public. Mr. Ruppe commented also that there is desire to give more information to the beneficiaries and less information to the public. This would allow the group to operate more like a private business. Mr. Ruppe also noted that in order to make any changes or exemptions it would need to be done in agreement with the Advocacy Office & committee. Mr. Donaldson commented that he is willing to dig into it deeper and understand the problems and hurdles that SITLA may be facing. He did state that he thinks the OPMA exemptions as is are already fairly significant as well as the GRAMA processes and strongly opposes any action that would try and remove these safeguards in their entirety. He referenced history of the trust lands in Utah and the dangers of not having open transparency. He would like to get more specifics details as opposed to more abstract thought regarding the issue and identify any specific exemptions needed if there are any. Mr. Ure reiterated previous comments, and also stated that if an exemption was made from OPMA than additional check and balances for beneficiaries would need to be put in place. Mr. Tonks, from the Attorney General's Office noted that there can be exceptions made through legislation and the opportunity to explain the current limitations. Exemptions can help but still a little difficult. Caution was raised in requesting a general exception to open meeting laws. Chair Ostler and Ms. Plant would like to have a future discussion within a smaller committee of individuals to see how to best address the issue moving forward, and the SITLA executives present agreed.

8. The Office presented the Guiding principles for approval:
 - a. Seek first to understand the business rational and strategies used by trust fiduciaries at SITLA and STIFO;
 - b. Be an active, collaborative, and equal partner in the trust system;
 - c. Encourage trust fiduciaries to be as open and transparent as possible within the law, maintaining business confidentiality;



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- d. Engage on matters of most importance to the trust;
 - e. Build and maintain relationships of respect through diplomatic actions;
 - f. Champion the legacy and heritage of the trust;
 - g. Prioritize long term value creation over short term gains;
 - h. Represent the trust as an ambassador to all stakeholders;
 - i. Ensure the trust lands and funds are managed with integrity and fidelity to the beneficiaries; and
 - j. Collaborate and share information with beneficiary groups and stakeholders
- A motion to formally to adopt the guiding principles was made by Mr.Ellis and was seconded by Mr. Cononelos.
- k. Aye: Louie Cononelos, Richard Ellis, Brigham Tomco, Paula Plant, Steve Ostler
 - l. Nay: none
9. Comments
- a. Ms. Plant introduced Heather Van Leeuwen who represents the PTA and Symone Caldwell, who is new to SITFO. She was recently hired and will represent SITFO in the Advocacy Committee Meetings..
 - b. Mr. Tomco discussed the SITFO Nominating Committee process. The first meeting will be held in January, he would like to begin the process pre-holidays in trying to recruit candidates earlier.
 - c. Mr. Donaldson commented that the Advocacy Committee Chair, Vice Chair and Advocacy Office are meeting in the interim of Committee quarterly meetings to check in with Committee leadership.
10. Adjourn
- a. A motion to adjourn was voted upon by the board.
 - b. Aye: Louie Cononelos, Richard Ellis, Brigham Tomco, Paula Plant, Steve Ostler
 - c. Nay: none